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5 UNITED STATES DISTRICT COURT
6 SOUTHERN DISTRICT OF OHIO
7 WESTERN DIVISION
8 - - -

9 HENRY WILLIAMS, :
10 :
11 Plaintiff, :
12 :
13 vs. : CASE NO. C-1-02-533
14 :
15 MILTON CAN COMPANY, INC. and :
16 BWAY MANUFACTURING, :
17 :
18 Defendants. :
19 :
20 - - -

21 DEPOSITION

22 of GERALD HANIFEN, taken before me, Kathy J. Nicholson,
23 Registered Professional Reporter and Notary Public in and
24 for the State of Ohio at large, as on cross-examination,
25 at the Hampton Inn, 858 Eastgate North Drive, in the City
of Batavia, County of Clermont, and State of Ohio, on
Monday, the 27th day of October, 2003, beginning at 12:55
o'clock, p.m.
- - -

Charlene E. Nicholas & Assoc., Inc.
111 Briar Heath Circle, Dayton, OH 45415-2601
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EXHIBIT

tabbles

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1 APPEARANCES:

2 On behalf of the Plaintiff:

3 WILL ALLEN, ESQ.
4 CASPER & CASPER
5 One N. Main Street
6 P.O. Box 510
7 Middletown, OH 45042

8 On behalf of the Defendant:

9 DAVID BLACK, ESQ.
10 DINSMORE & SHOHL
11 1900 Chemed Center
12 255 East Fifth Street
13 Cincinnati, OH 45202

14 ALSO PRESENT: JOHN MCMAHAN

15 - - -

16 INDEX OF EXAMINATION

<u>Name of Witness</u>	<u>Page</u>
Gerald Hanifen	
Cross-Examination by Mr. Allen	3

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18 INDEX OF EXHIBITS

19 NO EXHIBITS MARKED

20 - - -

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24
25

1 Q. Was that a verbal report?

2 A. Yes, the people come to me was verbal.

3 Q. Do you remember who those people were?

4 A. One was Wayne Pike. The other one was Aubrey
5 Luckey.

6 Q. Luckey?

7 A. Uh-huh. L-u-c-k-e-y I think it is.

8 Q. I'd say if Bob missed him, he was lucky. Were
9 those both hourly employees?

10 A. Yes, sir.

11 Q. You were a union steward at that point?

12 A. Yes, sir.

13 Q. Did you take that on up the line, chain of
14 command?

15 A. Yes, sir.

16 Q. Who did you --

17 A. I got ahold of Walt Ballantine.

18 Q. Who was Walt Ballantine?

19 A. He was not our production supervisor, but above
20 that.

21 Q. Production manager?

22 A. Manufacturing manager I think is what they
23 called him.

24 Q. So he's a member of management?

25 A. Yes, sir.

1 Q. Do you know what was ever done with that
2 complaint or concern?

3 A. When I talked to Walt, he removed Bob Francia
4 from the truck.

5 Q. Do you remember approximately when that was?

6 A. No, I couldn't say approximately when it was.

7 Q. It was before Jake's injury?

8 A. Yes.

9 Q. Do you know how long Bob was removed from the
10 truck?

11 A. Best I can remember, it was two days to a week.
12 Didn't last very long.

13 Q. You said you were the union steward. Are you
14 currently a union steward?

15 A. Yes, sir.

16 Q. How long have you been a union steward?

17 A. All but two years since 1979.

18 Q. Can you estimate whether this incident where Bob
19 was removed from the truck, was that more than a year or
20 less than a year before Jake got hurt?

21 A. I'd say it would be less than a year.

22 Q. Besides that incident, are you aware of any
23 other difficulties that Bob had in operating his fork
24 truck?

25 A. Yeah, there was one other incident involved

1 Wayne Pike also.

2 Q. What happened with that?

3 A. Wayne was back around the palletizer. Bob came
4 down the aisleway and nearly hit Wayne.

5 Q. Was that before or after the incident with Wayne
6 and Aubrey?

7 A. Afterwards.

8 Q. It was obviously more than two days, because Bob
9 was back on the truck?

10 A. Right.

11 Q. Wayne brought that to your attention?

12 A. Wayne brought -- he brought this to his
13 supervisor's attention and mine also.

14 Q. Who was the supervisor, do you remember?

15 A. Kenny Parrot. Ken Parrot just like the bird.

16 Q. And do you know what Ken Parrot did with that
17 complaint or concern?

18 A. Story I get he turned it -- report to HR which
19 is human resources.

20 Q. So if I can get the timing down, sometime within
21 approximately a year before Jake got hurt, Bob almost
22 bumped Wayne Pike and Aubrey Luckey?

23 A. Right.

24 Q. Down by the salvage?

25 A. Salvage area, right.

1 thought it was time to set him down.

2 BY MR. ALLEN:

3 Q. Did you actually tell Walt that?

4 A. Yeah, Walt did it.

5 Q. But I mean what did you tell Walt?

6 A. I said, "Get him off that truck."

7 Q. And did you explain why?

8 A. Yes, sir.

9 Q. What concern did you convey to him? Did you say
10 he's going to hit somebody?

11 A. I told him he almost hit two people, and I
12 didn't want to take a chance on someone else getting hurt.

13 Q. Then after the second incident with Wayne, did
14 you actually have a conversation with anybody as union
15 steward? You told me that Wayne went to Ken, his
16 supervisor.

17 A. Right.

18 Q. Did you actually have a conversation with any
19 member of management --

20 A. No.

21 Q. -- after that second one?

22 A. No, I didn't.

23 Q. Did Wayne tell you what he told Ken?

24 A. Yeah.

25 Q. What did he say?